REGULATORY REVIEW SUMMARY

Amendment to the Plan for Medical Assistance

I. IDENTIFICATION INFORMATION

Title of Final Regulation: Amount, Duration and Scope of Services Preventive Services: Maternal Length of Stay Technical Amendment

Director's Adoption: July 28, 1999

Effective Date: October 1, 1999

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II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, §32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, §32.1-324 authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) §9-6.14:1 et seq., for the exemption of certain regulatory actions by state agencies due to conformance to state law and is therefore exempt from Article 2 of the APA.

Purpose: The purpose of this action is to amend the Plan for Medical Assistance concerning the most currently available standards for the early discharge from hospitals of new mothers and their infants. This change is not expected to affect the public's health, safety, or welfare since it merely amends the State Plan to bring the agency into compliance with the Code. The amendment will be transparent to recipients and will ensure that providers' compliance with the Guidelines' criteria and not violate the State Plan.

Substance and Analysis: The sections of the State Plan affected by this action are the Narrative for the Amount, Duration, and Scope of Services (12 VAC 30-50-220).

The 1996 General Assembly enacted Chapter 201 which amended and reenacted the *Code of Virginia* at § 32.1-325 setting forth "a provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria, **outlined in the most current version of or an official update to** *(emphasis added)* the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standard for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto.".

DMAS included in the State Plan the lengthy criteria set forth in the Guidelines for Perinatal Care, 3rd edition which were in effect at the time the original regulations were adopted.

The updated Guidelines for Perinatal Care. 4th edition, containing very different criteria, was issued in August 1997. Specifically stating the criteria in the State Plan will necessitate regulatory action to change the Plan each time the Guidelines are re-issued. This regulatory action removes the specific criteria from the State Plan and specifies that the criteria to be followed for early discharge and any follow up home visits will be as stated in the most current version or official update to the Guidelines. This gives all providers the reference document without setting forth the detailed lengthy criteria. It also keeps the State Plan current without re-promulgating regulations each time the Guidelines are revised.

Issues: The agency projects no negative issues involved in implementing this regulatory change. The effect of this regulatory action will be transparent to Medicaid recipients. Hospitals that provide maternity care will be able to adhere to the most current version of the published Guidelines without violating the State Plan.

Impact: This action will have no budget impact. There are no localities, which are uniquely affected by these regulations as they apply statewide.

Forms: No new forms will be required for implementation of this regulation.

Evaluation: The Department of Medical Assistance Services will monitor the implementation of this regulatory action as part of its ongoing Plan monitoring activities.

III. STATEMENT OF AGENCY FINAL ACTION

I hereby approve the foregoing Regulatory Review Summary with the attached revisions to the State Plan for Medical Assistance and take the adoption action stated herein. Because this final regulation is exempt from the public notice and comment requirements of the Administrative Process Act (Code 9-6.14:4.1 C), the Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

7/28/99
Date

/s/ Dennis G. Smith
Dennis G. Smith, Director
Dept. of Medical Assistance Services

REGULATORY REVIEW CHECKLIST

To accompany Regulatory Review Package

Agency Department of Medical Assistance Services

Regulation title Amount, Duration, and Scope of Services: Preventive Services

Purpose of the regulation Revise State Plan provision for maternal length of stay to comply with the General Assembly mandate.

Summary of items attached:

☒ **Item 1:** A copy of the proposed new regulation or revision to existing regulation.

☒ **Item 2:** A copy of the proposed regulation submission package required by the Virginia Administrative Process Act (Virginia Code Section 9-6.14:7.l.G [redesignated Section 9-6.14:7. l.H after January 1, 1995]). These requirements are:

- ☒ (i) the basis of the regulation, defined as the statutory authority for promulgating the regulations, including the identification of the section number and a brief statement relating the content of the statutory authority to the specific regulation proposed.
- ☒ (ii) the purpose of the regulation, defined as the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety and welfare.
- ☒ (iii) the substance of the regulation, defined as the identification and explanation of the key provisions of the regulation that make changes to the current status of the law.
- ☒ (iv) the issues of the regulation, defined as the primary advantages and disadvantages for the public, and as applicable for the agency or the state, of implementing the new regulatory provisions.
- ☒ (v) the estimated impact, defined as the projected number of persons affected, the projected costs, expressed as a dollar figure or range, for the implementation and compliance thereof, and the identity of any localities particularly affected by that regulation.

☒ **Item 3:** A statement from the Attorney General that the agency possesses, and has not exceeded, its statutory authority to promulgate the proposed regulation.

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☒ **Item 4:** A statement disclosing whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate, together **with an attached copy of all cited legal provisions.**

☒ **Item 5:** For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement setting forth the reasoning by which the agency has concluded that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function.

☒ **Item 6:** For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered, and the reasoning by which the agency has rejected such alternatives.

☒ **Item 7:** A schedule setting forth when, no later than three (3) years after the proposed regulation is effective, the agency will initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated. Include a description of the specific and measurable goals the proposed regulation is intended to achieve, if practical.

☒ **Item 8:** A detailed fiscal impact analysis prepared in coordination with DPB that includes: (a) the projected cost to the state to implement and enforce the proposed regulation and (b) the source of funds to meet this projected cost.

Dennis G. Smith	7/28/99	VPS 7/29/99
Signature of Agency head	Date	Date forwarded to DPB & Secretary